

ARKANSAS SUPREME COURT

No. CR 06-475

PATRICK TROWBRIDGE
Petitioner

v.

STATE OF ARKANSAS
Respondent

Opinion Delivered April 26, 2007,

PRO SE MOTION FOR
APPOINTMENT OF COUNSEL
[CIRCUIT COURT OF BOONE
COUNTY, CR 2002-348, HON. JOHN
PUTMAN, JUDGE]

MOTION DENIED.

PER CURIAM

In 2004, appellant Patrick Trowbridge entered pleas of guilty to first-degree murder and kidnapping for which an aggregate sentence of 660 months' imprisonment was imposed. Subsequently, appellant timely filed in the trial court a petition for postconviction relief under Ark. R. Crim. P. 37.1, which was denied in 2005. Appellant sought, and was granted, leave by this court to proceed with a belated appeal of the order. *Trowbridge v. State*, CR 06-475 (Ark. Sept. 21, 2006) (per curiam).

The attorney who is representing appellant in the appeal has filed a brief pursuant to *Anders v. California*, 386 U.S. 738(1967), and a motion pursuant to Ark. Sup. Ct. R. 4-3(j)(1) seeking to be relieved as counsel on the ground that the appeal is wholly without merit. Our clerk provided appellant with a copy of counsel's brief and motion as required by Ark. Sup. Ct. R. 4-3(j)(2) and advised him that he was entitled to submit within thirty days any pro se points for reversal of the order that he desired this court to consider on appeal. Appellant tendered points for reversal, but the

points were not received within the thirty-day period allowed. He now asks by pro se motion that counsel be appointed to represent him. He bases the motion on the erroneous declaration that he is proceeding pro se on appeal.

While appellant does not make reference to the fact that his attorney has asked to be relieved on the ground that the appeal is without merit, appellant's motion suggests that he considers himself to be without counsel at this juncture, presumably because his attorney has expressed her professional opinion that he cannot prevail on appeal. The mere filing of a motion to be relieved that is grounded on counsel's reasoned belief that an appeal is without merit, however, does not entitle an appellant to appointment of other counsel.

It is well settled that the decision to file an *Anders* brief is a matter of professional judgment and counsel, not the appellant, must decide whether the issues preserved for appeal are meritorious. *Dudley v. State*, 285 Ark. 160, 685 S.W.2d 170 (1985) (per curiam). It is assumed that the procedure set out in our rule and *Anders, supra*, affords an appellant ample opportunity to be heard. As appellant has not demonstrated that there is good cause to replace the attorney who is currently representing him, we decline to depart from the prevailing rules of procedure and relieve counsel and appoint another attorney at this time.

Motion denied.